

## Building Codes and Short Term Rentals

Given the proliferation of short-term rentals there is much confusion about this type of occupancy and applicable building codes pertaining to automatic sprinkler systems and accessibility for individuals with disabilities. Because these requirements are, clear for commercial use groups such as apartment buildings, dormitories, etc., the focus of this analysis will be on one- and two family dwellings and townhouses used as short-term rentals.

### Automatic Sprinkler System Requirements

In the city of Columbia, construction of one- or two-family dwellings or townhouses, is regulated within the scope of the International Residential Code (IRC), which states in Section R101.2,

“The provisions of this code shall apply to the construction, *alteration*, movement, enlargement, replacement, repair, *equipment*, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and *townhouses* not more than three stories above *grade plane* in height with a separate means of egress and their *accessory structures* not more than three stories above *grade plane* in height.”

This section goes on to allow an exception for owner-occupied lodging houses to be regulated by the IRC where provided with a residential fire sprinkler complying with Section P2904 so it could be argued a lodging house must have an automatic sprinkler system This would appear to require something other than the typical IRC sprinkler requirements but it does not. The IRC, as written, requires an automatic fire sprinkler system installation in all dwelling units it regulates. State of Missouri Statute 67.281 supersedes this requirement,

**67.281. Installation of fire sprinklers to be offered to purchaser by builder of certain dwellings — purchaser may decline.** — 1. A builder of one- or two-family dwellings or townhouses shall offer to any purchaser on or before the time of entering into the purchase contract the option, at the purchaser's cost, to install or equip fire sprinklers in the dwelling or townhouse. Notwithstanding any other provision of law to the contrary, no purchaser of such a one- or two-family dwelling or townhouse shall be denied the right to choose or decline to install a fire sprinkler system in such dwelling or townhouse being purchased by any code, ordinance, rule, regulation, order, or resolution by any county or other political subdivision. Any county or other political subdivision shall provide in any such code, ordinance, rule, regulation, order, or resolution the mandatory option for purchasers to have the right to choose and the requirement that builders offer to purchasers the option to purchase fire sprinklers in connection with the purchase of any one- or two-family dwelling or townhouse.

The IRC defines dwelling as “Any building that contains one or two *dwelling units* used, intended, or designed to be **built, used, rented, leased, let or hired out** to be occupied, or that are occupied for living purposes.” (There is no mention of transient or non-transient resident in the IRC).

The IRC defines a dwelling unit as “A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

The questions then arise, are these dwelling to be considered something other than a one- or two-family dwelling or townhouse because it is being rented for short-term/transient occupants? Is this a change of use requiring a reclassification to a residential use group as set forth in the International Building Code (IBC)? These questions need clarification and resolution.

At the center of this debate is whether the occupants are permanent or transient in nature. Transient, in the IBC is defined as, occupancy of a dwelling unit or sleeping unit for not more than 30 days. There are four residential use groups delineated in Section 310 of the IBC. Let us look at each one separately to see if there is a fit for these dwellings constructed per the prescriptive requirements of the IRC.

### **310.2 Residential Group R-1.**

Residential Group R-1 occupancies containing *sleeping units* where the occupants are primarily *transient* in nature, including:

*Boarding houses*(*transient*) with more than 10 occupants

*Congregate living facilities* (*transient*) with more than 10 occupants

Hotels (*transient*)

Motels (*transient*)

If dwellings used for short-term rentals are limited to 10 or less occupants then boarding house and congregate living facilities are clearly not applicable. In addition, there is no mention of, or definition of sleeping units in the IRC because, per the IBC definition of sleeping unit, “Such rooms and spaces that are also part of a dwelling unit are not sleeping units.” One- and two family dwellings and townhouses are by definition “dwellings”. Given there are no sleeping units this section is not applicable unless it is a dwelling with just guest/sleeping rooms rented. This would typically be an owner occupied arrangement as regulated per 310.4.2 below.

### 310.3 Residential Group R-2.

Residential Group R-2 occupancies containing *sleeping units* or more than two *dwelling units* where the occupants are primarily permanent in nature, including:

Apartment houses

*Congregate living facilities* (nontransient) with more than 16 occupants

*Boarding houses* (nontransient)

Convents

*Dormitories*

Fraternities and sororities

Monasteries

Hotels (nontransient)

*Live/work units* Motels (nontransient)

Vacation timeshare properties

This use group does not appear to be a fit as it speaks to non-transient permanent occupants or even an owner as in the case of vacation timeshare properties and also qualifies this group as either having sleeping units or more than two dwelling units. This is never the case with one- and two-family dwellings and townhouses.

#### 310.4.1 Care facilities within a dwelling.

Care facilities for five or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the *International Residential Code* provided an *automatic sprinkler system* is installed in accordance with Section 903.3.1.3 or Section P2904 of the *International Residential Code*. Not applicable.

#### 310.4.2 Lodging houses.

Owner-occupied *lodging houses* with five or fewer *guest rooms* and 10 or fewer total occupants shall be permitted to be constructed in accordance with the *International Residential Code*. The IBC and/or the International Existing Building Code regulates building used as a short-term rental exceeding these guidelines. All automatic fire sprinkler requirements of these codes would then apply.

### 310.5 Residential Group R-4.

Residential Group R-4 occupancy shall include buildings, structures or portions thereof for more than five but not more than 16 persons, excluding staff, who reside on a 24-hour basis in a supervised residential environment and receive *custodial care*. Buildings of Group R-4 shall be classified as one of the occupancy conditions specified in Section 310.5.1 or 310.5.2. This group shall include, but not be limited to, the following:

Alcohol and drug centers  
Assisted living facilities  
Congregate care facilities  
*Group homes*  
Halfway houses  
Residential board and care facilities  
Social rehabilitation facilities

This use is clearly not applicable to the discussion.

Unless the **intention is to have more than 5 guestrooms or rent to more than 10 occupants** there is no residential classification in the IBC that fits for a one- two family dwelling or townhouse used as a short-term rental. This is of critical importance because all of the residential use groups in the IBC are required to have an automatic sprinkler system per IBC section 903.2.8.

If the authority having jurisdiction interprets one of these IBC residential use groups does fit then the International Existing Building Code (IEBC) offers a performance compliance method that could negate this requirement for an automatic sprinkler system. A STR ordinance could prescribe this performance compliance method as a requirement for licensure. These performance requirement methods are easy to meet in a typical single-family detached dwelling, duplex or townhouse but of course, this analysis comes with a cost. Another alternative would be to add other safety measures such as additional smoke detectors or alarms, a life-safety or exiting plan, etc.

### Accessibility Requirements

IBC chapter 11 controls the design and construction of facilities for accessibility for individuals with disabilities. Section 1103.2.3 states, “Detached one- and two-family dwellings, their accessory structures and their associated *sites* and *facilities* are not required to comply with this chapter.

Accessibility requirements for other residential use groups, if using these dwellings as short-term rentals is deemed a change of use, are set forth in IBC section 1107.6.1 through 1107.6.4.

#### **1107.6.1 Group R-1.**

*Accessible units* and *Type B units* shall be provided in Group R-1 occupancies in accordance with Sections 1107.6.1.1 and 1107.6.1.2. **Because we determined this use-group would only be applicable to dwellings that have more than 5 guestrooms/sleeping units and 10 occupants this section will generally not be applicable. A dwelling used as a short-term rental and not limited to these restrictions I would interpret as a complete change of occupancy and must meet the requirements of the International Existing Building Code section 305.4.2 and any other accessibility requirements in the codes. This would include, but not be limited to, accessible parking, accessible route, etc.**

### 1107.6.2 Group R-2.

*Accessible units, Type A units and Type B units* shall be provided in Group R-2 occupancies in accordance with Sections 1107.6.2.1 through 1107.6.2.3. **This use group is not applicable as it only speaks to nontransient residents.**

### 1107.6.3 Group R-3.

In Group R-3 occupancies where there are four or more *dwelling units* or *sleeping units intended to be occupied as a residence* in a single structure, every *dwelling unit* and *sleeping unit intended to be occupied as a residence* shall be a *Type B unit*. Bedrooms within congregate living facilities, dormitories, sororities, fraternities, and boarding houses shall be counted as *sleeping units* for the purpose of determining the number of units.

**Exceptions:** The number of *Type B units* is permitted to be reduced in accordance with Section 1107.7

**One- and two-family dwellings on separate lots would not meet these parameters for accessibility. Notice this section does not speak to lodging houses as set forth in 310.4.2. If a short-term lodging house rental offers four or more guestrooms/sleeping units then examination of accessibility requirements would be necessary.**

### 1107.6.4 Group R-4.

**Not applicable to short-term rentals.**

## Summary

Although the use of one- and two family dwellings and townhouses as short-term rentals could be construed as a change of use there are no other categories in the IBC where these structures neatly fit in terms of automatic fire sprinkler requirements and accessibility requirements unless the dwelling offered more than 5 guestroom or more than 10 occupants. Properties exceeding these limits would need to meet all automatic fire system/accessibility requirements as set forth in the International Building Code and the International Existing Building Code as adopted by the City of Columbia.

Typical short-term rental of one- and two family dwellings or townhouses do not fit the automatic sprinkler system requirements of the International Building Code, or the International Fire Code. On the other hand, all new residential structures governed by the International Residential Code would be required to install an automatic fire sprinkler system if not for the State of Missouri Statute 67.281. It seems prudent that consideration of requiring performance compliance methods, as offered in Chapter 13 of

the International Existing Building Code (IEBC), or requiring other safety measures for licensure as a short-term rental be given. Examples of additional safety measures could include additional smoke detection, posted life safety/exiting plans, fire alarm systems, fire extinguisher requirements etc.

Typical short-term rental of one- and two family dwellings or townhouses do not fit the accessibility requirements of the International Building Code unless there are four or more dwelling units or sleeping units. This would be a rare occurrence such as four or more townhouses on the same lot or four or more sleeping units/guestrooms in a lodging home. These rare occurrences require full compliance with the IBC/IEBC accessibility requirements.

Existing apartments, dormitories and other such structures, regulated by the International Building Code, offering short-term residential rental would need a code review and analysis for accessibility and fire system requirements.

Bldg. Regulation Supervisor Analysis